



Paper No. 9

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON , TX 77057-1130

COPY MAILED

AUG 2 1 2001

OFFICE OF PETITIONS

In re Application of	:
Wodrich et al.	:
Application No. 09/752,028	:
Filed: 29 December, 2000	:
Attorney Docket No. PQC-1	:

DECISION GRANTING PETITION

This is a decision on the petition filed on 14 May and supplemented on 1 July, 2001, requesting that the filing date of the above identified application be corrected to 29 December, 2000.

The application was filed on 29 December, 2000. On 13 February, 2001, however, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration, a surcharge for its late filing, and substitute drawings. A two (2)-month period for reply was set. On 26 February, 2001, petitioners filed an executed declaration, and the surcharge for its late filing. In response, on 13 March, 2001, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers, stating that substitute drawings in accordance with 37 CFR 1.84 were required because the previously filed drawings did not have the appropriate margin. A two (2)-month period for reply was set. In response, on 26 March, 2001, petitioner filed five (5) sheets of new drawings.

The present petition was filed on 14 May, 2001. In support of the petition, petitioners provided on 1 July, 2001, a copy of an itemized postcard receipt in accordance with MPEP 503 containing a U.S. Patent and Trademark Office (USPTO) date stamp of 29 December, 2000, and the above-identified application number. The postcard receipt itemizes the filing of, *inter alia*, 15 pages of

specification, including 4 pages of claims, and 2 sheets of informal drawings. A review of the official file reveals that an error occurred during the processing of the original application papers in the USPTO.

A postcard receipt which properly itemizes and identifies the papers being filed serves as *prima facie* evidence of receipt in the USPTO of all of the items listed thereon on the date stamped by the USPTO. As the application papers, including 15 pages of description, 4 pages containing 17 claims, and two (2) sheets of drawings, were filed on 29 December, 2000, it appears that the presently accorded filing date of 26 February, 2001, is the result of inadvertent error on the part of the USPTO.

The petition is granted. The petition fee of \$130.00 is unnecessary and will be refunded to counsel's Deposit Account, No. 13-0010.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 29 December, 2000, and issuance of a corrected Filing Receipt. Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy